Dear FCC Staff and Commissioners:

I am dismayed that the FCC succumbed to the pressure to open the "Notice of Proposed Rulemaking" Docket #05-311 on local cable franchising, but since it has, I feel compelled to offer the following comments. For the record, my name is John Donovan, and I reside in Newton, Massachusetts.

First, I take issue with the major premises underlying Docket 05-311. Contrary to your first concern, competition DOES exist in the broadband arena, and it is steadily growing. Satellite/DBS already offers an alternative to cable TV throughout this country; and in places where overbuilders have sought a cable TV license under Section VI, such as my own and other RCN-served communities near me, it has been granted. Even the phone company Verizon has sought and received a cable TV franchise just down the road in Wakefield, MA, and is in the midst of obtaining others in my area. There has been no unreasonable delay in cable franchising in my area, and furthermore, the 1984 and 1992 Cable Acts offer applicants adequate remedies.

Based on my own experience living in communities served by single and multiple cable providers, and having followed cable prices closely for many years, I also take issue with the premise that increased competition will lead to lower prices. It hasn't in my area. My broadband prices have always gone in one direction – up! And not only is there no discernible price difference between the two wireline broadband companies serving my city, I also do not pay any less than my friends in neighboring communities served by only one wireline provider. I submit that the FCC's time would be better spent collecting pricing data which would, I believe, debunk persistent assumptions like this one that frame many of its proceedings, rather than spinning up new investigations designed to wrap the promotion of private interests in public garments.

Don't get me wrong. Competition has important benefits, such as promoting innovation and encouraging service improvements, and is a worthy goal. But not at any cost. I want competition in the broadband arena, and I believe that nearly all communities in this country welcome competition, too. The only entities that don't want competition are those who stand to profit from exclusive franchises. You are surely aware of the feverish efforts, in cities and states all over this country, to pass laws banning publicly-owned wireless and/or broadband networks because they would compete with privately-owned networks; the entities behind these efforts include the very same ones who want to avoid the regulatory process their competitors have had to follow in order to obtain cable TV licenses.

Those who prompted this NPRM are not interested in promoting competition, they are interested in making money. It is not the FCC's job to help businesses make money; they do extremely well on their own, as the cable companies, telephone companies, and now wireless companies have consistently demon-strated. These are among the most profitable big businesses in our economy! Rather, it is the FCC's job to safeguard the public's interest in the communications arena. So what, exactly, constitutes the public interest in this arena? I humbly suggest the following as starters:

* Ubiquitous access to the highest-quality service
* Access to the broadest diversity of viewpoints
* Those affected by service should be provided adequate control and remedies
* The industry's bias towards mass-appeal services and programming should be balanced with services and programming that is local, alternative, educational, and/or not commercially attractive.

And in terms of these desired outcomes, I think Congress and the FCC got it largely right in the 1984 and 1992 Cable Acts, and few changes are needed now.

Thanks to the language of the Cable Act, relevant hearings, and protections written into local franchises and later enforced by municipalities, there has been little or no red-lining in providing cable service. Are the phone companies prepared to do the same? SBC, for one, is not, as your own NPRM points out (under paragraph 6 and in footnote 36).

Thanks to the Cable Act-sanctioned capacities of local franchising authorities to require Public, Educational, and Governmental (PEG) channels, facilities, and funding, cable TV subscribers in a thousand or more communities, including my own, have access to an extraordinary variety of locally-produced and/or locally-sponsored programming which the cable companies have not otherwise found profitable enough to carry. These channels help to promote an informed citizenry, make local government more transparent and accountable, highlight the unique character of each community, and provide the only place on television, anywhere, that is open to citizens on a non-discriminatory basis. The fact that these channels are not beholden to market forces, in an entirely market-driven perversion of communications potential, also means that they can be counted upon to be the only place where truly diverse points of view have a chance of being spoken and heard. The "marketplace of ideas" that all Americans recognize as fundamental to an informed electorate and a vibrant democracy only exists in American mass media because of PEG Access provisions negotiated at the local level.

And thanks to the mechanism of local franchising, those adversely affected by these broadband providers have some measure of control over what is done to them. Local franchises are the means by which communities and the residents who live in them stipulate what they are willing to endure in terms of construction delays, lost work time waiting for truck rolls to arrive at their homes, hold times for customer service calls, and compensation for service interruptions, among others. These are perfectly sensible concerns for communities to have, and since different communities have different issues and priorities, it makes sense that these decisions have been left to cable providers to negotiate community by community. It has worked for cable companies all along, and there is no reason it can't work for those who wish to enter the cable business now.

The Cable Acts, and the local cable franchises that have followed from them, have largely succeeded in meeting everyone's needs. The cable companies prospered handsomely, the subscribers got lots of new channels and now broadband access, communities got their service concerns addressed, and communities created vibrant local programming entities to complement the mass market fare on the commercial channels.

What the FCC should be doing is reminding the phone and electric companies and whoever else wants to enter the broadband market that they need to follow the same rules that the cable companies have abided by. Any deviation from this regime, short of new comprehensive legislation from Congress, will only invite confusion and years of expensive litigation and administrative proceedings, exactly the sort of dampeners which truly hold back expansion. I agree with Commissioner Adelstein's observations that the phone companies would be much further along in securing local franchises and becoming yet another competitor if they had directed their resources into negotiating these franchises rather than subverting and overturning the franchising process. I'm sure the phone companies regret their failure to exploit the technical advantage they had in ISDN years before the cable companies developed broadband, but they do not deserve preferential treatment now in their bid to make up for lost time and markets.

On behalf of the American people for whom you are supposed to be working, the FCC Staff and Commissioners need to finally stand up and say what you should have been saying all along to anyone who wants a piece of the lucrative broadband action - play by the rules we have or get out of the game!

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